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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/669,902
Applicant : BURNETT, RICK ALLEN
Filed : SEPTEMBER 24, 2003
Title : DEBRIS REMOVAL FROM FLUIDIZED SAND BED

Art Unit : 8172
Examiner : RODRIGUEZ, JOSEPH C.

Atty Docket No. : 13DV13973-2

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The below-identified communication(s) is (are) submitted in the above-captioned application or proceeding:

- ☒ Authorization to Charge Deposit Account
- ☒ Response to Restriction Requirement
- ☒ The Commissioner is hereby authorized to charge payment of any fees associated with this communication, including fees under 37 C.F.R. §§ 1.16 and 1.17 or credit any overpayment to **Deposit Account Number 07-0865**.

Respectfully submitted,

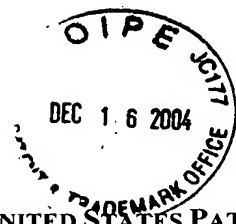
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December 16, 2004

S.N. 10/669,902
Atty Docket No. 13DV13973-2



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Application No. : 10/669,902
Applicant : BURNETT, RICK ALLEN
Filed : SEPTEMBER 24, 2003
Title : DEBRIS REMOVAL FROM FLUIDIZED SAND BED

Art Unit : 3653
Examiner : RODRIGUEZ, JOSEPH C.

Atty Docket No. : 13DV13973-2

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT
PURSUANT TO 37 CFR 1.143

Dear Sir:

In response to the Office Action mailed December 9, 2004, please consider the following remarks:

At pages 2-4 of the Office Action, and pursuant to 35 USC 121, the Examiner says that restriction to one of the following inventions is required:

- I. Claims 1-9, and 13 allegedly drawn to four different apparatus, classified in class 209, subclasses 361, 362.
- II. Claims 10-12, drawn to a system, classified in class 209, subclass 369.
- III. Claims 14-16, drawn to a method, classified in class 209, subclass 208.

Referring to MPEP 806.05(c), the Office Action says that these inventions are "distinct" because:

1. The Invention I (the apparatus)/Invention II (the system) and Invention III (method) subject matter are alleged to be related as process and apparatus for its practice. It is further alleged that the method of Invention III can be practiced by

materially different systems (e.g., systems with distinctly different perforated cages as demonstrated by Invention I).

2. The Invention I (apparatus) and Invention II (system) subject matter are alleged to be related as combination and subcombination. It is alleged that the combination claimed does not require the particulars of the subcombination as claimed as evidenced by the broader claiming of the perforated cage in the combination of Claim 10. It is further alleged that the subcombination has separate utility such as a vertical sifter that is separated from the fluid bed and means for moving.

The Office Action also says that, if Applicant elects the Invention I subject matter, Claims 1-9 and 13 are directed to patentably distinct species defined by the following figure groupings: (i) FIGs. 3-5; (ii) FIG. 26; and (iii) FIG. 27. The Office Action further alleges that the relationship of the claim groupings with the drawings is unclear from the specification, but that Applicant has presented distinct species. The Examiner requests clarification as to what apparatus claim groupings correspond to the distinct species defined by the indicated figure groupings and elect one of these figure groupings.


As requested at page 3 of the Office Action, Applicant provisionally elects the Invention III subject matter (i.e., the method of Claims 14-16). Applicant would also like to point out that the Invention II subject matter of Claims 10-12 was previously cancelled by a preliminary amendment concurrently submitted with the filing of the above application. Accordingly, only Claims 1-9 and 13-16 are currently pending, i.e., the Invention I and III subject matter.

Applicant respectfully requests the Examiner to reconsider and withdraw this restriction requirement. Applicant submits that this restriction requirement simply exalts form impermissibly over substance. Other than referring to the different classifications for Inventions I and III, the Office Action provides no other basis for why the searches would be different or burdensome. Accordingly, Applicant respectfully requests that Inventions I and III of Claims 1-9 and 13-16 be examined together. See MPEP 803, which states:

“If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.”

Respectfully submitted,

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December 16, 2004